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April 22, 2008

VIA ECF AND FEDEX

The Honorable George B. Daniels
U.S. District Court Judge
U.S. Courthouse
500 Pearl Street
New York, NY 10007

RE: *Storey Construction Co., Inc. v. M & I Marble Works, Ltd.*
        U.S.D.C. Southern District of New York, Cause No. 08cv976 (GBD)

Dear Judge Daniels:

This matter is scheduled for an initial pretrial conference on May 1, 2008, at 9:30 a.m.

Enclosed please find "Civil Case Management Plan and Scheduling Order" signed by Plaintiff, verifying Plaintiff's consent to the Court's proposed Plan and Order. Defendant has declined to sign because of a pending Motion to Dismiss.

We have made a number of verbal and written requests to defense counsel to schedule the very limited amount of discovery this case requires. These efforts have thus far been completely unsuccessful. Under the circumstances, filing a different proposed plan is not appropriate or feasible.

We have made written requests to defense counsel to "retract and correct" a serious misstatement of fact in defense counsel's letter addressed to you under date of April 21, 2008.

We look forward to meeting you and resolving these issues at the upcoming conference.

Sincerely yours,

R. Miles Stanislaw

RMS/mas

Enclosure

We believe in law as it should be. . . results

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK
---X
Storey Construction Co., Inc.,
                                    Plaintiff,   08cv976(GBD)

         -against-   CIVIL CASE MANAGEMENT
                                                        PLAN AND SCHEDULING ORDER
M&I Marble Works LTD doing business
as Marble Solutions,
                                    Defendant,
---X

         After consultation with counsel for the parties, the following Case Management Plan is
adopted. This plan is also a scheduling order pursuant to Rules 16 and 26(f) of the Federal
Rules of Civil Procedure.

1. No **additional parties** may be joined after **July 3, 2008**.

2. No **amendment** to the pleadings will be permitted after **July 3, 2008**.

3. Except for good cause shown, all **discovery** shall be commenced in time to be completed by **August 7, 2008**. The Court expects discovery to be completed within 90 days of the first scheduling conference unless, after the expiration of that 90 day period, all counsel stipulate that additional time (not to exceed 60 more days) is needed to completed discovery. In such event, discovery may be extended by the parties on consent, without application to the Court, provided the parties are certain they can still meet the discovery completion date ordered by the Court. The discovery completion date shall not be adjourned except upon a showing of extraordinary circumstances.

4. **Dispositive motions** are to served by **November 6, 2008**. Answering papers are to be served within 14 days. Reply papers are to be served within seven (7) days. In the event a dispositive motion is made, the date for submitting the Joint Pretrial Order shall be changed from that shown herein to three(3) weeks from the decision on the motion. The final pretrial conference shall be adjourned to a date four (4) weeks from the decision on the motion.

5. A final **pretrial conference** will be held on **December 4, 2008 at 9:30 a.m..**

6. The **Joint Pretrial Order** shall be filed no later than **November 13, 2008**. The requirements for the pretrial order and other pretrial submissions shall be governed by the Court's Individual Rules of Practice.

7. **All motions and applications** shall be governed by the Court's Individual Rules of Practice.

8.   The parties shall be **ready for trial** on 48 hours notice on or after **December 11, 2008.** The estimated trial time is _____ days, and this is a (jury) (non-jury) trial.

9.   The **Next Case Management Conference** will be held on **September 4, 2008 at 9:30 a.m..**

Dated: February 4, 2008
         New York, New York

SO ORDERED:

_____
Attorney for Plaintiff

_____
GEORGE B. DANIELS
United States District Judge

_____
Attorney for Defendant